

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

v.

CIV 12-1093 JB/KBM
CR 11-1672 JB

HUGO MEJIA-FERNANDEZ,

Defendant-Movant.

SUPPLEMENTAL PROPOSED FINDINGS
AND
RECOMMENDED DISPOSITION

Among other things, the Court's prior proposed findings found one claim to be potentially meritorious given the information in the record and ascertainable online at the time, and found the other claims without merit. *See Doc. 8*. The Court further directed Defendant to advise whether he had raised a third claim in the missing page of the Petition. *See id.*

The Court's notice of electronic filing shows that the proposed findings were mailed to Defendant at the address of record, and nothing in the docket reflects that he has provided a notice of change of address or that the findings were not delivered. According to the Bureau of Prisons inmate locator, Defendant, Register Number 62570-051, remains incarcerated at FCI Victorville in California at the address the Court has of record. To-date, Defendant has not

filed objections or otherwise indicated that he raised more claims than previously addressed.

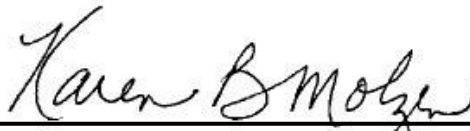
The United States filed a motion to reconsider, supplementing the record with certified documents and an affidavit. These documents establish Defendant was counseled in the state criminal proceedings. As such, the sole factual basis for the potentially meritorious claim is now extinguished. See *Docs. 9, 9-1, 9-2, 9-3, 9-4*. To-date, Defendant has not responded to the motion.

In light of the pending motion and the lack of response from Defendant, none of Defendant's claims have merit.

Wherefore,

IT IS HEREBY RECOMMENDED THAT:

1. The United States' motion to reconsider (*Doc. 9*) be granted;
2. In light of the fact that Defendant was counseled in the state proceedings, the prior recommendations concerning the potentially meritorious claim be stricken;
3. The Court find none of Defendant's claims have merit; and
4. The Court deny the § 2255 petition and dismiss this action with prejudice.

A handwritten signature in black ink, appearing to read "Karen B. Mohr", is written over a horizontal line.

UNITED STATES CHIEF MAGISTRATE JUDGE